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PART II—Section 1

प्राधिकार से प्रकाशित

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इस भाग में निम्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
separate paging is given to this Part in order that it may be filed
as a separate compilation.

MINISTRY OF LAW
(Legislative Department)

New Delhi, the 26th March, 1968/Chaitra 6, 1890 (Saka)

The following President's Acts are published for general information:—

THE WEST BENGAL LAND REFORMS
(AMENDMENT) ACT, 1968

No. 1 of 1968

Enacted by the President in the Nineteenth Year of the
Republic of India.

An Act further to amend the West Bengal Land Reforms
Act, 1955.

6 of 1968. In exercise of the powers conferred by section 3 of the West Bengal State Legislature (Delegation of Powers) Act, 1968, the President is pleased to enact as follows:—

1. This Act may be called the West Bengal Land Reforms (Amendment) Act, 1968. Short title.

Amend-
ment
of section
4.

2. In section 4 of the West Bengal Land Reforms Act, 1955 (hereinafter referred to as the principal Act), in sub-section (2B), for the words "a fine not exceeding three hundred rupees, and where the breach is a continuing one, a further fine not exceeding fifty rupees for each day", the words "a fine not exceeding two thousand rupees, and where the breach is a continuing one, a further fine not exceeding two hundred rupees for each day" shall be substituted.

West Bengal
Act X of
1956.

Insertion
of new
section
16A.

3. After section 16 of the principal Act, the following section shall be inserted, namely:—

Bargadar
title to
recover
his share
in certain
cases.

"16A. If the produce of any land cultivated by a *bargadar* is harvested and taken away, or if such produce after it is harvested by the *bargadar* is taken away, forcibly or otherwise, by the owner of such land, the *bargadar* shall be entitled to recover from such owner the share of the produce due to him or its money value."

Amend-
ment
of section
18.

4. In section 18 of the principal Act,—

(a) in sub-section (1), after clause (a), the following clause shall be inserted, namely:—

"(aa) recovery of produce under section 16A,";

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) The decision of any dispute referred to in clause (aa) of sub-section (1) shall specify the quantity of the produce recoverable from the owner by the *bargadar* as his share and also its money value which shall be payable by the owner in default of delivery of such quantity of the produce."

Repeal and
saving.

5. (1) The West Bengal Land Reforms (Amendment) Ordinance, 1967 is hereby repealed.

West Bengal
Ordinance
XII of 1967.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act as if this Act had come into force on the 22nd day of December, 1967.

ZAKIR HUSAIN,
President.

V. N. BHATIA,
Secy. to the Govt. of India.

Reasons for the enactment

Under the West Bengal Land Reforms Act, 1955, it is the duty of the *bargadar* to deliver to the owner of the land his share of the produce. In case of any default on the part of the *bargadar*, the owner has the right of going to the officer or authority appointed under section 18 of the Act and obtaining from him an order compelling the *bargadar* to deliver the share of the crop or its money value to the owner. But the *bargadar* had no corresponding right or remedy in the event of the owner of the land harvesting or taking away the whole of the crop forcibly or otherwise. For the sake of equity the Government of West Bengal considered it expedient that the *bargadar* should be given the same right and remedy as the owner of the land has in the matter of recovery of his share of the produce or its money value. For this purpose the Governor of West Bengal promulgated on the 22nd December, 1967 the West Bengal Land Reforms (Amendment) Ordinance, 1967 (West Bengal Ordinance No. XII of 1967).

2. The proposed measure seeks to replace the said Ordinance. As the punishment for a breach of the provisions of sub-section (2A) of section 4 of the Act is not sufficiently deterrent, opportunity is also taken in this measure to amend sub-section (2B) of that section in order to enhance the punishment provided therein.

3. As it is not practicable to refer the present legislation to the Consultative Committee of Parliament on West Bengal legislation, it has been decided, in view of the urgency of the matter, to enact the present legislation without such reference.

B. SIVARAMAN,
Secy. to the Govt. of India,
Ministry of Food, Agriculture,
Community Development and
Co-operation.

THE CALCUTTA *THIKA* TENANCY (AMENDMENT) ACT, 1968

No. 2 of 1968

Enacted by the President in the Nineteenth Year of the
Republic of India.

An Act further to amend the Calcutta *Thika* Tenancy
Act, 1949.

In exercise of the powers conferred by section 3 of the West Bengal State Legislature (Delegation of Powers) Act, 1968, the President is pleased to enact as follows:—

- Short title. 1. This Act may be called the Calcutta *Thika* Tenancy (Amendment) Act, 1968.
- Amendment of section 1. 2. In sub-section (2) of section 1 of the Calcutta *Thika* Tenancy Act, 1949 (hereinafter referred to as the principal Act), the following words and figures shall be, and shall be deemed always to have been, omitted, namely:—
 “such suburbs of Calcutta as may have been or may hereafter be notified under section 1 of the Calcutta Suburban Police Act, 1866 and are not included within Calcutta as so defined and also”.
- Act to override other laws, etc. 3. The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any law for the time being in force or in any rule, order or notification or in any contract, express or implied and notwithstanding any decision of any court, tribunal or other authority to the contrary.
- Act to apply to certain suits, appeals etc. 4. The provisions of this Act shall apply to all suits, appeals and other proceedings (including proceedings in execution) pending at the commencement of the Calcutta *Thika* Tenancy (Amendment) Ordinance, 1967.
- Validation. 5. Anything done or any action taken contrary to the provisions of clause (b) of sub-section (1) of section 6 of the West Bengal Estates Acquisition Act, 1953 in respect of any land situated within such suburbs of Calcutta to which the provisions of the principal Act had, before the commencement of the Calcutta *Thika* Tenancy (Amendment) Ordinance, 1967, extended, shall be deemed to have been as validly done or taken as if the principal Act had not extended to the said suburbs of Calcutta when such thing was done or such action was taken.

6 of 1968.

West Bengal
Act II of
1949.

Bengal Act
II of 1866.

West Bengal
Ordinance
IX of 1967.

West Bengal
Act I of 1954.

West Bengal
Ordinance
IX of 1967.

West Bengal
Ordinance
VI of 1968.

6. (1) The Calcutta *Thika* Tenancy (Amendment) Second Ordinance, 1968 is hereby repealed. Repeal and saving

(2) Notwithstanding such repeal, anything done or any action taken (including any order made, proceeding commenced, obligation or liability incurred), or deemed to have been done or taken, under the principal Act as amended by the said Ordinance shall continue to be in force and shall be deemed to have been validly done, taken, made, commenced or incurred, as the case may be, under the principal Act as amended by this Act as if this Act were in force on the day on which such thing was done, such action was taken, such order was made, such proceeding was commenced or such obligation or liability was incurred.

ZAKIR HUSAIN,
President.

V. N. BHATIA,
Secy. to the Govt. of India.

Reasons for the enactment

The Garden Reach Municipal area is outside the area described in Schedule I to the Calcutta Municipal Act, 1951 (West Bengal Act XXXIII of 1951) and as such the West Bengal Estates Acquisition Act, 1953 (West Bengal Act I of 1954) extends to this area. Accordingly, in the last Revisional Settlement Operation, the record-of-rights was prepared showing the *thika* tenants there as tenants holding directly under the State.

2. The retrospective introduction of the *Explanation* to clause (b) of sub-section (1) of section 6 of the West Bengal Estates Acquisition Act, 1953 (West Bengal Act I of 1954), by the West Bengal Estates Acquisition (Amendment) Act, 1961 (West Bengal Act IX of 1961), which entitled an intermediary to retain land appertaining to buildings and structures owned by a *thika* tenant as defined in the Calcutta *Thika* Tenancy Act, 1949 (West Bengal Act II of 1949), however, created in the area a serious problem, the full implication of which came to light when the *thika* tenants faced ejection for not paying rent to the intermediaries although they had paid the rent to the State Government.

3. With a view to removing the anomalous position and regularising the action already taken in vesting the intermediary interests in the State, it was considered necessary that the Calcutta *Thika* Tenancy Act, 1949 (West Bengal Act II of 1949) should be so amended as to take out, with retrospective effect, the Garden Reach Municipal area which was notified under section 1 of the Calcutta Suburban Police Act, 1866 (Bengal Act II of 1866), from the area within which the Calcutta *Thika* Tenancy Act, 1949 (West Bengal Act II of 1949) applied.

4. The Calcutta *Thika* Tenancy (Amendment) Ordinance, 1967 (West Bengal Ordinance IX of 1967) was accordingly promulgated by the Governor of West Bengal.

5. The Legislature of West Bengal having had a session on the 29th November, 1967, the Ordinance was due to expire on the 9th January, 1968. In order to continue the provisions of the Ordinance, the Governor of West Bengal promulgated the Calcutta *Thika* Tenancy (Amendment) Second Ordinance, 1968 (West Bengal Ordinance VI of 1968).

6. The proposed measure seeks to replace the Calcutta *Thika* Tenancy (Amendment) Second Ordinance, 1968 (West Bengal Ordinance VI of 1968).

7. As it is not practicable to refer the present legislation to the Consultative Committee of Parliament on West Bengal legislation, it has been decided, in view of the urgency of the matter, to enact the present legislation without such reference.

B. SIVARAMAN,
Secy. to the Govt. of India,
Ministry of Food, Agriculture,
Community Development and
Co-operation.

THE CALCUTTA THIKA TENANCY STAY OF PROCEEDINGS (TEMPORARY PROVISIONS) ACT, 1968

No. 3 of 1968

Enacted by the President in the Nineteenth Year of the Republic of India.

An Act to provide for the temporary stay of proceedings for ejectment of *thika* tenants.

6 of 1968. In exercise of the powers conferred by section 3 of the West Bengal State Legislature (Delegation of Powers) Act, 1968, the President is pleased to enact as follows:—

1. (1) This Act may be called the Calcutta *Thika* Tenancy Stay of Proceedings (Temporary Provisions) Act, 1968.

Short title, extent, commencement and duration.

West Bengal Act II of 1949. (2) It extends to the areas to which the Calcutta *Thika* Tenancy Act, 1949 extends.

(3) It shall be deemed to have come into force on the 26th day of August, 1967 and shall remain in force up to and inclusive of the 25th day of September, 1968.

West Bengal Act II of 1949. 2. In this Act, the expression "*thika* tenant" has the same meaning as in the Calcutta *Thika* Tenancy Act, 1949.

Definition.

West Bengal Act II of 1949. 3. Notwithstanding anything contained in the Calcutta *Thika* Tenancy Act, 1949 or in any other law for the time being in force,—

Stay of proceedings for ejectment of *thika* tenants.

(a) all applications for ejectment of *thika* tenants,

(b) all appeals from orders made on such applications, and

(c) all proceedings in execution of orders for ejectment of *thika* tenants,

under the provisions of the said Calcutta *Thika* Tenancy Act which are pending at the date of commencement of this Act or which may be made, preferred or commenced after such date but before the expiry of this Act, shall be stayed for the period during which this Act continues in force.

Limitation.

4. In computing the period of limitation prescribed by any law for the time being in force for an application for the ejectment of a *thika* tenant or for an appeal from an order made on such application or for the execution of an order for ejectment of a *thika* tenant, the period during which this Act continues in force shall be excluded.

Repeal and saving.

5. (1) The Calcutta *Thika* Tenancy Stay of Proceedings (Temporary Provisions) Second Ordinance, 1968 is hereby repealed.

West Bengal
Ordinance I
of 1968.

(2) Notwithstanding such repeal, any order made or deemed to have been made, thing done or deemed to have been done or action taken or deemed to have been taken under the said Ordinance shall continue to be in force and shall be deemed to have been made, done or taken, as the case may be, under this Act.

ZAKIR HUSAIN,
President.

V. N. BHATIA,
Secy. to the Govt. of India.

Reasons for the enactment

Under the Calcutta *Thika* Tenancy Act, 1949 (West Bengal Act II of 1949), a *thika* tenant is liable to ejectment from his holding on one or more of the grounds mentioned in that Act. Of late the problem of ejectment of *thika* tenants has assumed considerable magnitude particularly in the context of soaring land prices. The Government of West Bengal, therefore, proposed to undertake a comprehensive legislation for amending the Act with a view to preventing unfair eviction of *thika* tenants. Pending such a comprehensive amendment of the Act which would take some time, it was considered expedient by that Government to suspend temporarily all proceedings for ejectment of *thika* tenants.

2. As the West Bengal Legislature was not in session and in view of the urgency of the matter, the Calcutta *Thika* Tenancy Stay of Proceedings (Temporary Provisions) Ordinance, 1967 (West Bengal Ordinance No. V of 1967) was accordingly promulgated by the Governor of West Bengal on the 26th August, 1967. A session of the West Bengal Legislature was held on the 29th November, 1967, but it was suddenly prorogued. As the Ordinance was due to expire on

the 9th January, 1968 and as proposals for amendment of the Calcutta *Thika* Tenancy Act were yet to be finalised, the Calcutta *Thika* Tenancy Stay of Proceedings (Temporary Provisions) Second Ordinance, 1968 (West Bengal Ordinance No. I of 1968) was promulgated by the Governor of West Bengal to continue the provisions of the first Ordinance.

3. The proposed measure seeks to replace the Calcutta *Thika* Tenancy Stay of Proceedings (Temporary Provisions) Second Ordinance, 1968 (West Bengal Ordinance No. I of 1968).

4. As it is not practicable to refer the present legislation to the Consultative Committee of Parliament on West Bengal legislation, it has been decided, in view of the urgency of the matter, to enact the present legislation without such reference.

B. SIVARAMAN,

Secy. to the Govt. of India.
Ministry of Food, Agriculture,
Community Development and
Co-operation.

THE WEST BENGAL PREMISES TENANCY (AMENDMENT) ACT, 1968

No. 4 of 1968

Enacted by the President in the Nineteenth Year of the Republic of India.

An Act further to amend the West Bengal Premises Tenancy Act, 1956.

6 of 1968. In exercise of the powers conferred by section 3 of the West Bengal State Legislature (Delegation of Powers) Act, 1968, the President is pleased to enact as follows :—

1. (1) This Act may be called the West Bengal Premises Tenancy (Amendment) Act, 1968. Short title
and com-
mencement.

(2) It shall be deemed to have come into force on the 26th day of August, 1967.

West Bengal Act XII of 1956. 2. In section 17 of the West Bengal Premises Tenancy Act, 1956 (hereinafter referred to as the principal Act).—

Amendment
of section 17

(1) after sub-section (2), the following sub-sections shall be inserted, namely:—

“(2A) Notwithstanding anything contained in sub-section (1) or sub-section (2), on the application of the tenant, the Court may, by order,—

(a) extend the time specified in sub-section (1) or sub-section (2) for the deposit or payment of any amount referred to therein;

(b) having regard to the circumstances of the tenant as also of the landlord and the total sum inclusive of interest required to be deposited or paid under sub-section (1) on account of default in the payment of rent, permit the tenant to deposit or pay such sum in such instalments and by such dates as the Court may fix:

Provided that where payment is permitted by instalments, such sum shall include all amounts calculated at the rate of rent for the period of default including the period subsequent thereto up to the end of the month previous to that in which the order under this sub-section is to be made with interest on any such amount calculated at the rate specified in sub-section (1) from the date when such amount was payable up to the date of such order.

(2B) No application for extension of time for the deposit or payment of any amount under clause (a) of sub-section (2A) shall be entertained unless it is made before the expiry of the time specified therefor in sub-section (1) or sub-section (2), and no application for permission to pay in instalment under clause (b) of sub-section (2A) shall be entertained unless it is made before the expiry of the time specified in sub-section (1) for the deposit or payment of the amount due on account of default in the payment of rent.”;

(2) For sub-section (3), the following sub-section shall be substituted, namely:—

“(3) If a tenant fails to deposit or pay any amount referred to in sub-section (1) or sub-section (2) within the time specified therein or within such extended time as may be allowed under clause (a) of sub-section (2A), or fails to deposit or pay any instalment permitted under clause (b) of sub-section (2A) within the time fixed therefor, the Court shall order the defence against delivery of possession to be struck out and shall proceed with the hearing of the suit.”;

(3) In sub-section (4),—

(a) for the words, brackets and figure “or sub-section (2)”, the words, brackets, figures and letter “sub-section (2) or sub-section (2A)” shall be substituted;

(b) for the existing proviso, the following proviso shall be substituted, namely:—

“Provided that a tenant shall not be entitled to any relief under this sub-section if, having obtained such relief once in respect of the premises, he has again made default in the payment of rent for four months within a period of twelve months.”.

3. For section 17A of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for section 17A.

“17A. (1) Where in a suit pending at the date of commencement of the West Bengal Premises Tenancy (Amendment) Act, 1968 the defence against delivery of possession was struck out by an order made under sub-section (3) of section 17 before such date, the tenant may, within a period of thirty days from such date make an application to the Court which made such order to set aside such order.

Power of Court to set aside order striking out defence against delivery of possession.

(2) On receipt of an application under sub-section (1), the Court shall determine, after giving credit for every deposit or payment made by the tenant in accordance with the provisions of sub-section (1) or sub-section (2) of section 17, the total amount which the tenant remained liable to deposit or pay in accordance with such provisions up to the end of the month previous to that in which the order under this sub-section is to be made and direct the tenant, by order, to deposit such amount in the Court within a period of thirty days from the date of the order.

(3) If the tenant deposits such amount within such time, the Court shall allow the application under sub-section (1) and set aside the order made under sub-section (3) of section 17 striking out the defence against delivery of possession, and permit the tenant to defend the claim for delivery of possession.

(4) If the tenant fails to deposit such amount within such time, his application under sub-section (1) shall be dismissed with such costs as the Court may award to the landlord.

Power of Court to set aside decree in cases where defence against delivery of possession struck out.

17B. (1) Where a decree for the recovery of possession of any premises was passed before the commencement of the West Bengal Tenancy (Amendment) Act, 1968, in a suit in which the defence against delivery of possession was struck out by an order under sub-section (3) of section 17, but the possession of such premises has not been recovered from the tenant by the execution of such decree, the tenant may, within a period of sixty days of such commencement, make an application to the Court which passed such decree to set aside such decree.

Explanation.—Where such decree has been passed in the exercise of appellate jurisdiction, an application under this sub-section shall be made to the Court of first instance.

(2) All proceedings in execution of such decree shall remain stayed during the period referred to in sub-section (1) and, where an application under that sub-section has been made by the tenant within such period, until such application is disposed of by the Court.

(3) On receipt of an application under sub-section (1) the Court shall cause a notice thereof to be served on the landlord and after hearing such evidence as the parties may adduce, determine—

(a) the total amount that the tenant was liable to deposit or pay in accordance with the provisions of sub-section (1) or sub-section (2) of section 17 during the period ending with the date of the decree for the recovery of possession, after giving credit for every deposit or payment made by the tenant in accordance with such provisions during such period; and

(b) the total amount that the tenant remained liable to pay if he had to pay for the period commencing from the date of such decree and ending with the date of the order to be made under this sub-section a monthly sum equivalent to the rent at the rate at which it was last paid, after giving credit for all such sums that the tenant might have deposited in the Court or with the Controller or paid to the landlord for such period,

and direct the tenant, by order, to deposit in the Court the aggregate of the amounts referred to in clauses (a) and (b) within such time, not exceeding sixty days from the date of the order, as the Court may fix.

(4) If the tenant deposits the amount ordered by the Court within the time fixed by it, the Court shall allow the application under sub-section (1) and set aside the decree for the recovery of possession passed in the suit and the order made under sub-section (3) of section 17 striking out the defence against delivery of possession, and fix a date for proceeding with the hearing of the suit.

(5) If the tenant fails to deposit the amount ordered by the Court within the time fixed by it, his application under sub-section (1) shall be dismissed with such costs as the Court may award to the landlord.

17C. A tenant who deposits the amount as directed by the Court under sub-section (2) of section 17A or sub-section (3) of section 17B shall, for the purpose of sub-section (4) of section 17, be deemed to have duly made the deposit as required by sub-section (1) or sub-section (2) of section 17."

Deposit under section 17A or section 17B to be deemed to be deposit as required by sub-section (1) or sub-section (2) of section 17.

4. In sub-clause (ii) of clause (a) of sub-section (6) of section 26 of the principal Act, for the words "a member of the Executive", the following words shall be, and shall be deemed always to have been, substituted, namely:—

Amendment of section 26

"a member of the Indian Administrative Service or a member of the Executive".

5. The amendments made to the principal Act by section 2 of this Act shall have effect in respect of suits including appeals which are pending at the date of commencement of this Act.

Retrospective effect.

West Bengal
Ordinance
II of 1968.

6. (1) The West Bengal Premises Tenancy (Amendment) Second Ordinance, 1968 is hereby repealed.

Repeal and saving.

(2) Notwithstanding such repeal, anything done or any action taken (including any order made, proceeding commenced, obligation or liability incurred), or deemed to have been done or taken, under the principal Act as amended by the said Ordinance shall continue to be in force and shall be deemed to have been done, taken, made, commenced or incurred, as the case may be, under the principal Act as amended by this Act.

ZAKIR HUSAIN,
President.

V. N. BHATIA,
Secy. to the Govt. of India.

Reasons for the enactment

Under section 17 of the West Bengal Premises Tenancy Act, 1956 (West Bengal Act XII of 1956) as it stood before its amendment by the West Bengal Premises Tenancy (Amendment) Ordinance, 1967 (West Bengal Ordinance No. VI of 1967), all tenants contesting a suit for ejectment were required to deposit the entire rent within thirty days of the service of summons and thereafter to deposit the current rent, month by month, within the fifteenth day of the month next succeeding the month for which rent is due. Any default on the part of the tenant made it obligatory for the Court to strike out his defence against delivery of possession. Moreover, a tenant who has defaulted in paying rent for four months within a period of twelve months was debarred from avoiding ejectment by making a deposit or payment as required by sub-section (1) or sub-section (2) of section 17. The Court had no powers, even in cases of real hardship of extending the time for making the deposit. Since the provisions of the Act were causing severe hardship to the tenants in some cases, it was considered necessary by the Government of West Bengal to give the tenants some relief by an amendment of the Act. Accordingly the West Bengal Premises Tenancy (Amendment) Ordinance, 1967 (West Bengal Ordinance No. VI of 1967) was promulgated by the Governor of West Bengal in August, 1967.

2. The main provisions of the Ordinance were as follows :—

(a) the Court was empowered to extend the time limit for payment of the arrear dues by the tenant and to allow instalments in deserving cases;

(b) the Court had discretion whether to strike out the defence against ejectment or not, even in cases of failure to deposit or to pay the arrear dues in time;

(c) the tenant had the opportunity for once only to avoid ejectment on the ground of default in payment of rent, irrespective of the period of default by making deposit or payment of all arrear dues. On any subsequent occasion, however, default in payment of rent for four months within a period of twelve months debarred him from getting any relief;

(d) the Court had the power to set aside order in pending suits and decrees passed before the commencement of the Ordinance and not executed, in cases where the defence of the tenant was struck out, if the tenant deposited whatever amount is due on account of rent from him within the time fixed by the Court.

3. The Legislature of West Bengal having had a session on the 29th November, 1967, the Ordinance referred to in paragraph 1 was due to expire on the 9th January, 1968. The West Bengal Premises Tenancy (Amendment) Second Ordinance, 1968 (West Bengal Ordinance No. II of 1968) was therefore promulgated by the Governor of West Bengal to continue with certain modifications the provisions of the Ordinance referred to in paragraph 1.

4. The proposed measure seeks to replace the West Bengal Premises Tenancy (Amendment) Second Ordinance, 1968 (West Bengal Ordinance No. II of 1968).

5. As it is not practicable to refer the present legislation to the Consultative Committee of Parliament on West Bengal legislation, it has been decided, in view of the urgency of the matter, to enact the present legislation without such reference.

B. SIVARAMAN,
*Secy. to the Govt. of India,
Ministry of Food, Agriculture,
Community Development and
Co-operation.*

